

# FHA Single Family Housing Policy Handbook

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**I. DOING BUSINESS WITH FHA**

**B. OTHER PARTICIPANTS**

**3. 203(k) Consultants**

**a. 203(k) Consultant Roster**

The Standard [203\(k\) Rehabilitation Mortgage](#) program (see Programs and Products - 203(k) Rehabilitation Mortgage Insurance Program in the Origination section of this *SF Handbook*) requires the use of an FHA-approved [203\(k\) Consultant](#) (see 203(k) Consultant Requirements in the Origination section of this *SF Handbook*). FHA maintains a list of qualified Consultants on the [FHA 203\(k\) Consultant Roster](#). Only a Consultant on the Roster may be selected by the Mortgagee to conduct Consultant functions in the 203(k) program.

**Application and Approval Process**

**i. Eligibility Requirements**

**(A) Standard**

To become an approved 203(k) Consultant, the prospective Consultant must be able to perform all duties outlined in the [203\(k\) Consultant section](#) (see 203(k) Consultant Requirements in the Origination section of this *SF Handbook*). The prospective Consultant must:

- be a state-licensed architect. Proof of current license is required;
- be a state-licensed engineer. Proof of current license is required;
- have at least three years of experience as a remodeling contractor or general contractor. Narrative description of experience is required; or
- have at least three years of experience as a home inspector. Proof of current license is required if the applicant is located in a state that requires the licensing of home inspectors. For the purposes of this requirement, FHA considers “located” to mean “doing business,” and “license” to mean “license, certificate, registration, or approval.” If current license is not required, then the prospective Consultant must provide a narrative description of experience.

The prospective Consultant must not be listed on:

- the General Services Administration's System for Award Management ([SAM](#));
- HUD's Limited Denial of Participation ([LDP](#)) List; or
- HUD's Credit Alert Verification Reporting System ([CAIVRS](#)).

**(B) Required Documentation**

**(1) Narrative Description**

The prospective Consultant must submit a narrative description of their ability to:

- conduct Feasibility Studies;
- perform Consultant inspections;
- review or prepare architectural exhibits;
- prepare a Work Write-Up and cost estimate;
- complete draw request inspections; and
- prepare change order requests.

**(2) Location and Eligibility**

The prospective Consultant must indicate the states in which they will be doing business and provide Consultant Eligibility Requirement documentation for each state.

**(3) State Licenses**

The prospective Consultant must submit copies of all applicable state licenses.

**(4) Certification for Placement and Retention on the 203(k) Consultant Roster**

Consultants and prospective Consultants must submit the following required certification on their letterhead:

*Certification for Placement and Retention on the 203(k) Consultant Roster*

*I certify that I am presently in compliance, and that I will maintain compliance for as long as I am listed on HUD's 203(k) Consultant Roster, with all laws, regulations, and licensing, certification, registration, or other approval requirements that govern my ability to perform as a 203(k) Consultant in the following states, where I (will) do business as a 203(k) Consultant:*

*[Insert all states where the consultant is performing, or plans to perform, as a 203(k) Consultant.]*

*I also certify that I have read and fully understand the requirements of HUD's 203(k) Rehabilitation Program. Further, I understand that these procedures are to be followed when working as a 203(k) Consultant.*

*Name of 203(k) Consultant or Prospective Consultant:*

\_\_\_\_\_

*Signature:* \_\_\_\_\_

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**B. Other Participants - 203(k) Consultants**

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*Date:* \_\_\_\_\_

*Social Security Number:* \_\_\_\_\_

*WARNING: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).*

**ii. Submitting the Application**

The application documents must be submitted to the [Jurisdictional Homeownership Center \(HOC\)](#). Applications must be submitted to the attention of the Processing and Underwriting Director.

**iii. Incomplete Application**

An applicant who submits an incomplete application package will receive notification indicating the information required to cure the deficiency.

**iv. Application Approval**

FHA will inform the applicant if they are approved for placement on the [FHA 203\(k\) Consultant Roster](#). Inclusion of a Consultant on the Roster means only that the Consultant has met the qualifications. It does not create or imply a warranty or endorsement by FHA of the Consultant, nor does it represent a warranty of any work performed by the Consultant.

**Consultant Identification Number**

Each prospective Consultant who is approved will be provided a Consultant identification (ID) number and will be informed of their [recertification](#) due date. The Consultant ID number is required prior to doing any Consultant work associated with any 203(k) mortgage and must be included on all documents that require the Consultant's signature.

**v. Application Denial**

Applicants deemed ineligible for placement on the FHA [203\(k\) Consultant Roster](#).

**vi. Biennial Recertification**

To retain placement on the FHA [203\(k\) Consultant Roster](#), the Consultant must recertify every two years. The Consultant is required to recertify that they are still in compliance with all laws, regulations, licensing, certification, registration or other approval requirements that govern their ability to perform as a 203(k) Consultant in the states where they do business.

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**B. Other Participants - 203(k) Consultants**

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1 Consultants must submit the required updated certification and attachment to either:

- 2 • email: [answers@hud.gov](mailto:answers@hud.gov)  
3 Subject line: 203(k) Consultant Recertification; or
- 4 • regular mail:  
5 U.S. Dept. of HUD  
6 Attn.: 203(k) Consultant Roster  
7 451 7th Street, SW, Ste. 9266  
8 Washington, DC 20410

9 203(k) Consultants who fail to meet the recertification requirements may be removed  
10 from the 203(k) Consultant Roster. To request reinstatement on the Roster, the  
11 Consultant must submit a new [application after resolving the issue](#).

**4. Direct Endorsement Underwriters**

**a. Program Overview**

The Direct Endorsement (DE) Underwriter serves as the Mortgagee's subject matter expert on underwriting and must ensure compliance with all underwriting requirements in [Origination through Post Closing/Endorsement](#) for all manually underwritten Title II Forward Mortgages. Underwriting responsibilities include, but are not limited to, the following:

- calculation of maximum mortgage amounts;
- underwriting the property; and
- manual underwriting of the Borrower.

The DE Underwriter must also ensure compliance with all requirements for underwriting the property for all Title II Forward Mortgages underwritten using the TOTAL Mortgage Scorecard.

The DE Underwriter also serves as the Mortgagee's subject matter expert on the financial assessment requirements in [Origination through Post Closing/Endorsement for all Home Equity Conversion Mortgages \(HECM\)](#). Financial assessment requirements include the following:

- underwriting of the property;
- analysis of the Borrower's credit history;
- analysis of the Borrower's property charge payment history;
- calculation of residual income; and
- determination of the need for and the amount of a Life Expectancy Property Charge Set-Aside.

**b. DE Underwriter Eligibility**

**i. Eligibility Requirements**

The DE Underwriter must meet the following requirements:

- have a minimum of three years full-time experience reviewing credit applications and one- to four-unit property appraisals, within the past five years;
- be a full time employee of a single Mortgagee; and
- be authorized to bind the Mortgagee in matters involving origination of mortgage loans.

**ii. Ineligible Participants**

The DE Underwriter must not be:

- currently delinquent on any Federal Tax Debt or non-tax debt;
- currently subject to a suspension, debarment, Limited Denial of Participation (LDP), or other restriction imposed under Part 24 of Title 24 of the Code of Federal Regulations, Part 180 of Title 2 of the Code of Federal Regulations as

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### B. Other Participants - Direct Endorsement Underwriters

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implemented by Part 2424 of Title 2, or any successor regulations to such parts, or under similar provisions of any other federal or state agency;

- under indictment for, or have been convicted of, an offense that reflects adversely upon the underwriter's integrity, competence or fitness to meet the responsibilities of a DE Underwriter;
- subject to any Unresolved Findings made specifically against the underwriter as the result of any HUD or other governmental investigation or audit;
- engaged in business practices that do not conform to generally accepted practices of prudent underwriters or that demonstrate irresponsibility;
- convicted of, or have pled guilty or *nolo contendere* to, a felony related to participation in the real estate or mortgage loan industry:
  - during the seven-year period preceding the date of registration in FHA Connection (FHAC); or
  - at any time preceding the date of registration in FHAC, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering; or
- in violation of provisions of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) (12 U.S.C. § 5101 et seq.) or its equivalent under state law, including all Nationwide Mortgage Licensing System and Registry (NMLS) requirements.

Additionally, the DE Underwriter must not be employed in a mortgage lending, real estate, or related field, including self-employment, for any Entity other than the Mortgagee for which the underwriter is registered in FHAC.

#### c. Mortgagee's Approval Process

The Mortgagee must register each of its underwriters in FHAC. By registering an underwriter in [FHAC](#), the Mortgagee certifies that they meet the necessary qualifications described above.

**8. Nonprofits**

**a. General Requirements**

**i. Program Overview**

FHA requires all nonprofits to obtain approval and be placed on the HUD [Nonprofit Roster](#) to participate in FHA's Single Family nonprofit programs.

Nonprofits participating in one of FHA's nonprofit programs must serve Low- to Moderate-Income individuals or families. Low- to Moderate-Income individuals or families refer to individuals or families whose household income does not exceed 115 percent of the median income for the area when adjusted for family size. The Jurisdictional Homeownership Center (HOC) may approve a higher percentage of up to 140 percent.

**(A) Types of Single Family Nonprofit Programs**

**(1) HUD Homes**

Governmental Entities and HUD-approved Nonprofits are permitted to purchase homes at a discount from HUD.

**(2) FHA Mortgagor**

Governmental Entities and HUD-approved Nonprofits are eligible for the same [FHA-insured financing](#) (see Origination through Post-Closing/Endorsement section of the *SF Handbook*) as owner occupants.

After approval, nonprofits are still required to obtain credit qualification from the Mortgagee for each mortgage originated.

**(3) Secondary Financing**

Governmental Entities and HUD-approved Nonprofits may provide secondary financing assistance to homebuyers utilizing FHA insurance on a first mortgage when that assistance is secured with a second mortgage or lien.

**ii. Entities Requiring Approval to Participate in FHA Nonprofit Programs**

**(A) Nonprofits with 501(c)(3) Tax-Exempt Status**

A nonprofit organization must have 501(c)(3) Internal Revenue Service (IRS) tax-exempt status.

Where a nonprofit closes secondary financing in its own name, that nonprofit is required to be both FHA approved and placed on the HUD [Nonprofit Roster](#) even if the secondary financing will be held by the Governmental Entity.



**(B) Nonprofit Instrumentalities of Government**

**(1) Definitions**

A Nonprofit Instrumentality of Government refers to a 501(c)(3) organization that was established by a governmental body or with governmental approval or under special law to serve a particular public purpose or designated as an instrumentality by law (statute or court opinion). FHA requires the unit of government that established the nonprofit to exercise Organizational Control, Operational Control or Financial Control of the nonprofit in its entirety or, at minimum, the specific homebuyer assistance program that is using FHA's credit enhancement.

Organizational Control refers to the majority of the governing board and/or principal officers named or approved by governmental body/officials.

Operational Control refers to the requirement that the government body approves all major decisions and/or expenditures.

Financial Control refers to the requirement that the government body provides funds through direct appropriations, grants, or loans, with related controls applicable to all activities of the Entity.

**(2) Permitted Level of Secondary Financing Assistance**

A Nonprofit Instrumentality of Government may be permitted to provide secondary financing for as much as 100 percent of the Borrower's required cash investment.

**(C) Section 115 Entities with 501(c)(3) Status**

Section 115 Entities with 501(c)(3) status must meet the eligibility and application requirements for the HUD Homes and FHA Mortgage programs.

**iii. Entities Not Requiring FHA Approval to Participate in FHA Nonprofit Programs**

FHA approval and placement on the HUD Nonprofit Roster are not required for federal, state, or local government agencies or their instrumentalities, provided those Entities are not organized as 501(c)(3) nonprofits.

**(A) Governmental Entities and their Instrumentalities of Government**

Governmental Entity refers to any federal, state, or local government agency or instrumentality. An Instrumentality of Government refers to an Entity that was established by a governmental body or with governmental approval or under special law to serve a particular public purpose or designated by law (statute or court opinion) and does not have 501(c)(3) status.

FHA does not maintain a list of Governmental Entity program participants.

**(B) Nonprofits with a Documented Agreement to Support Secondary Financing**

Where a Governmental Entity uses a nonprofit to assist in the operation of the Governmental Entity's secondary financing assistance programs, FHA approval and placement on the HUD Nonprofit Roster are not required so long as there is a documented agreement indicating (1) the functions performed include the Governmental Entity's secondary financing program and (2) the secondary financing legal documents (e.g., Note and Deed of Trust) name the Governmental Entity as the Mortgagee.

Governmental Entities that have nonprofits close the secondary financing in the name of the nonprofit must verify that the nonprofit is both FHA approved and on the HUD [Nonprofit Roster](#).

**(C) Section 115 Entities**

Section 115 Entities do not require approval to participate in FHA's Nonprofit Secondary Financing program. Section 115 Entities are not required to have voluntary board members. FHA considers Entities that have both 501(c)(3) and Section 115 status to be Instrumentalities of Government for purposes of secondary financing only.

**iv. Ineligible Participants**

The nonprofit or any officer, partner, director, principal or employee shall not be:

- suspended, debarred, excluded from participation in FHA programs as listed in a [Limited Denial of Participation \(LDP\)](#) or [System for Award Management \(SAM\)](#) Excluded Parties List, or otherwise excluded by similar procedures of any other federal or state agency;
- indicted for, or convicted of, an offense which reflects upon the responsibility, integrity, or ability of the nonprofit to participate in FHA activities;
- subject to Unresolved Findings as a result of HUD or other governmental investigation, audit, or review; or
- engaged in business practices that do not conform to generally accepted practices of prudent nonprofits or that demonstrate irresponsibility.

These requirements apply at the time that the nonprofit applies for approval and at all times while it is a HUD-approved Nonprofit.

**b. Application and Approval Process**

**i. Initial Contact**

Prospective applicants must submit an email to [answers@HUD.gov](mailto:answers@HUD.gov) stating in which of the [three nonprofit programs](#) they have an interest and the state where the program activities will take place. HUD will provide the applicant with a point of contact.

**ii. Submitting the Preliminary Information**

The prospective applicant must submit the following information via email to the point of contact:

- nonprofit's legal name and physical address of the main office
- name, phone number, and email address of the Executive Director
- name, title, phone number, and email address for all staff members requesting system access for application and reporting
- effective date of the nonprofit's 501 (c)(3) tax-exempt status as reflected in the IRS Letter of Determination
- nonprofit's federal Employer Identification Number (EIN)
- the [FHA nonprofit program\(s\)](#) for which the nonprofit is seeking approval
- indication of whether the nonprofit is or is not an Instrumentality of Government
- confirmation that the nonprofit has two years of [relevant housing experience](#) within the last five years

**iii. Eligibility Requirements**

A Complete Nonprofit Application refers to an application that satisfies all [general application requirements](#) and all [program specific application requirements](#) for the programs in which the nonprofit seeks approval.

In those instances when a nonprofit is applying to more than one program and the program specific application requirements request duplicate information, the nonprofit is only required to submit this information once.

A Complete Nonprofit Application must be submitted and approved in order for a nonprofit to participate in any one of FHA's nonprofit programs.

**(A) General Application Requirements**

Nonprofit applicants must satisfy all of FHA's general application requirements whether they are applying to one or all of FHA's nonprofit programs.

**(1) IRS Tax-Exempt Status**

**(a) Standard**

The nonprofit must have an effective date of exemption as indicated by the IRS Letter of Determination of at least two years prior to the FHA nonprofit application date.

**(b) Required Documentation**

**(i) IRS Letter of Determination**

The nonprofit must submit the IRS Letter of Determination verifying approval under Section 501(c)(3) as exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986, as amended.

**(ii) Employer Identification Number**

The nonprofit must provide its EIN and any subsidiary organization's EIN. Nonprofits may not assume the name and EIN of another dormant or defunct nonprofit.

**(iii) Certification**

The nonprofit must submit a document signed by an authorized representative of the nonprofit certifying the following:

- The nonprofit's approval for tax exemption has not been modified or revoked by the IRS.
- The program activities for which the nonprofit seeks FHA approval to participate in are consistent with the activities and purposes for which the IRS granted tax-exempt status.
- The nonprofit has notified the IRS of any substantial and material changes in its character, purpose, or methods of operation.

**(2) Board of Directors and Employees**

**(a) Standard**

The nonprofit's Board of Directors must serve in a voluntary capacity for any service they provide in implementing the nonprofit's program and cannot receive compensation. Directors may receive reimbursement for expenses.

The nonprofit must operate in a manner so that no part of its net earnings is passed on to any individual board member, corporation, or other Entity affiliated with a board member. Board members cannot be employees of the nonprofit.

The occupational activities and obligations of board members cannot conflict with the work of the nonprofit.

It is a conflict of interest for a nonprofit to employ staff who also work for and receive financial benefits from an Entity that is providing the nonprofit with services.

**(b) Required Documentation**

**(i) Voluntary Board Certification**

The nonprofit must submit a certification signed by an authorized representative of the nonprofit agency confirming that the Board of Directors serves in a voluntary capacity.

**(ii) Board of Director Information**

FHA requires information on the job responsibilities of all board members to ensure that their occupational activities and obligations do not conflict with the work of the nonprofit.

The nonprofit must provide the following information for each board member:

- name and board position;
- length of board term including expiration;
- Social Security Numbers (SSN) for all voting board members; and
- description of outside employment that includes company name, title and nature of business.

**(3) Principal Management and Staff Members**

**(a) Standard**

**(i) Conflict of Interest**

Nonprofits must ensure that no conflicts of interest exist between their Boards of Directors, principal staff, or any other Entities that may participate in operating their Affordable Housing Programs (AHP).

It is a conflict of interest for a nonprofit to employ staff who also work for and receive financial benefits from a for-profit Entity that is providing the nonprofit with services related to the nonprofit's Affordable Housing Program Plan (AHPP).

**(ii) Staff Experience**

Principal staff and program managers must have experience in developing and administering housing programs. Hiring of experienced staff does not relieve the nonprofit agency of the [relevant experience](#) requirements.

**(b) Required Documentation**

The nonprofit must provide resumes and SSNs for principal management (Executive Director/President or Vice President, Project/Program Director, or similar position) and principal staff members.

The SSNs will be used only to assure HUD that no conflict-of-interest relationship exists and the board and staff have no outstanding unpaid government loans, sanctions, foreclosures, inappropriate transfers of real property, or Business Relationships.

#### **(4) Relevant Experience**

##### **(a) Standard**

The nonprofit must have a minimum of two consecutive years of relevant experience within the last five years as defined below:

- Relevant Experience for HUD Homes refers to the acquisition, rehabilitation, and resale of five Single Family properties.
- Relevant Experience for FHA Mortgagor programs refers to the housing development or property management of Single Family properties.
- Relevant Experience for Secondary Financing refers to the acquisition, rehabilitation, and resale of five Single Family properties or secondary financing experience.

Hiring of experienced staff does not relieve the nonprofit agency of the relevant experience requirements.

##### **Exception**

A nonprofit that does not meet this experience requirement may be able to obtain limited approval if it has at least one year of relevant experience as defined above and one year of other related housing experience. The nonprofit's "other related housing experience" must demonstrate that the organization has the financial and administrative capacity to purchase, rehabilitate and resell homes to Low-to Moderate-Income individuals or families.

##### **(b) Required Documentation**

The nonprofit must submit documentation to evidence [relevant experience](#) and other related housing experience, if applicable.

#### **(5) Delegation of Signature Authority**

##### **Required Documentation**

The nonprofit must provide organizational resolutions delegating signature authority to sign loan applications and/or sales contracts on behalf of the organization. These resolutions must be signed and dated by the appropriate persons under applicable state law, the Articles of Organization, and other governing documents.

**(6) Quality Control Plan**

**(a) Standard**

The nonprofit must have a Quality Control (QC) Plan that explains the organization's internal and external audit and monitoring procedures.

**(b) Required Documentation**

The nonprofit must provide a copy of the QC Plan that, at a minimum, includes the following elements:

- system for maintaining records of QC Findings and actions;
- periodic reports that identify deficiencies are provided to senior management;
- process by which prompt corrective measures are taken and documented by senior management when deficiencies are identified; and
- procedures to report any violation of law or regulation, any known false statement, fraud or program abuse to HUD, the HUD Office of Inspector General (OIG) and the appropriate federal, state or local law enforcement agency.

Although not required, nonprofit agencies are encouraged to include the following elements in their QC Plan:

- an impartial third-party Entity to conduct QC reviews on the nonprofit agencies' activities;
- procedures for expanding the scope of the QC review when fraud or patterns of deficiency may exist;
- procedures to identify revisions in FHA guidelines and inform staff of those revisions; and
- procedures to hold nonprofit staff accountable for performance failures or errors.

**(7) Administrative Capacity**

**(a) Standard**

The nonprofit must demonstrate the capability to develop and carry out its homeownership program in a reasonable timeframe and a successful manner.

Based on the level of administrative capacity, FHA may limit the number of properties purchased at a discount and mortgages insured by FHA.

**(b) Required Documentation**

The nonprofit must provide a narrative describing its past experience, if any, in acquisition, rehabilitation, property sales, counseling, and administration of a homeownership program or other AHPs.

**(8) Financial Capacity**

**(a) Standard**

The nonprofit must have the financial capacity to operate its homeownership program. FHA will assess the nonprofit's financial stability in terms of cash balances, assets and liabilities, annual expenses, and cash flow from operations.

Based on an analysis of submissions, FHA may limit the number of properties a nonprofit may purchase at a discount and purchase with FHA-insured financing.

**(b) Required Documentation**

Documentation requirements differ based on the amount of a nonprofit's expended federal award, as defined by the [Office of Management and Budget Circular A-133](#).

**(i) Expended Federal Awards of \$500,000 or More**

The nonprofit must submit current, year-end audited financial statements, profit and loss statements, and balance sheets. Nonprofits must submit two years of audited financial statements by the applicant's Independent Public Accountant (IPA) certifying that the nonprofit:

- maintains internal controls over federal awards;
- complies with applicable laws, regulations, and contract or grant provisions; and
- prepares appropriate financial statements.

The nonprofit must also submit the most recent quarterly financial statement along with certification from a Certified Public Accountant (CPA) or other financial professional attesting that the information accurately represents the financial condition of the nonprofit agency.

**(ii) Expended Federal Awards Less than \$500,000**

Nonprofits must submit two years of audited or unaudited financial statements, prepared in accordance with Generally Accepted Accounting Principles (GAAP) and reporting practices and must include:

- an auditor's review report, if available;



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- a treasurer's report; and
- any supplemental schedules.

The nonprofit must also submit the most recent quarterly financial statement along with certification from a CPA or other financial professional attesting that the information accurately represents the financial condition of the nonprofit agency.

**(9) Other Business Partners**

**(a) Standard**

A nonprofit agency must demonstrate that it maintains control over its homeownership program and cannot rely upon a business partner(s) to operate the program for which it seeks FHA approval.

**(b) Required Documentation**

The nonprofit must identify other business partners, such as real estate agents, mortgagees, rehabilitation contractors and consultants providing administrative, financial, and management services. The nonprofit must identify the company by name and list staff with whom the nonprofit will work.

The nonprofit must explain the nature and cost of the services and how the nonprofit exercises control over its business partners.

**(10) Consultant Services**

**(a) Standard**

The nonprofit's operations must be independent of the influence, control, or direction of the consultant or any other outside party, particularly those seeking to derive profit or gain from a proposed project (including landowners, real estate brokers, bankers, contractors, builders, or consultants). Consultant services must be provided on an arm's length basis.

Consultant services – administrative, management, financial, or otherwise – provided under an independent contractor relationship (as opposed to an employer-employee relationship) shall not constitute more than half of the nonprofit's activities throughout the duration of the approval period. This measurement will be calculated by evaluating the ratio of nonprofit staff to contracted or consultant staff; the ratio of hours devoted to the implementation of the AHPP by nonprofit staff versus contracted or consultant staff; and the funds devoted to paying nonprofit staff compared to those paying contracted or consultant staff. The nonprofit must have the in-house resources and

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capacity to operate its own programs, and contract for services only on a temporary and supplementary basis.

**(b) Required Documentation**

The nonprofit must explain the nature and cost of consultant services and how the nonprofit exercises control over consultants; describe the work that will be performed by consultants for each program; and provide the percentage of work performed by consultants for each program.

The nonprofit must provide a disclosure and supporting documentation related to any agreements with other parties that may derive financial gain through the homeownership program. The disclosure must identify the name of the business Entity, the individuals from the company who will be working with the nonprofit, the terms of the relationship, and how the party will be compensated.

**(11) Acting on Own Behalf Certification**

The nonprofit must provide a certification signed by an authorized representative of the organization stating the following:

*I certify that (Name of Nonprofit agency) is acting on its own behalf and is not under the influence, control, or direction of any party seeking to derive a profit or a gain from the proposed project, such as, but not limited to, a landowner, real estate broker, banker, contractor, builder, lender, or consultant.*

*WARNING: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).*

The certification must include the date, and the authorized representative's printed name, signature, and title.

**(12) FHA Approval Letter**

If previously approved by FHA to participate in FHA's nonprofit programs, the nonprofit must submit a copy of its most recent approval letter.

**(13) Adequate Facilities**

**(a) Standard**

A nonprofit agency must have office(s) located within a 200 mile radius of the geographical areas in which it plans to do business. For each office, nonprofits are required to have adequate office space, equipment and clerical assistance, so that employees may perform their duties in a responsible manner. A

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nonprofit's main office must be its designated facility to which FHA directs all communications about the management affairs of the nonprofit and from which the public obtains information about the activities of the nonprofit.

The nonprofit's facilities must be located in a space that is separate and apart from any other Entity. A nonprofit may share general reception-type entrances or lobbies with another business Entity or nonprofit. The facilities must be clearly defined to the public, so that visitors will know, at all times, exactly with which Entity they are doing business. This includes a sign and other common means of identification used by nonprofits and business Entities.

**(b) Required Documentation**

The nonprofit must submit the contact information and a physical address of the agency's main office.

The nonprofit must also submit interior and exterior photographs of its office facilities and a copy of the floor plan identifying the nonprofit's work space.

**(14) Lending Partner(s) Information**

**(a) Standard**

A nonprofit must ensure that no conflicts of interest exist. Employees of the lender cannot receive personal benefit because of the Business Relationship with the nonprofit.

**(b) Required Documentation**

The nonprofit must provide the name, address, and contact of any lending institution, bank, or private party that has provided financing to the nonprofit.

**(15) Application Certification**

The nonprofit must submit a document signed by an authorized representative of the organization certifying to FHA that the information submitted in response to the application package is accurate.

The certification must include the date, and the authorized representative's printed name, signature, and title. HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.

**(B) Program Specific Eligibility Requirements**

All [general application requirements](#) apply to participation in any of the three nonprofit programs. Please refer to the programs below for additional program specific requirements.

**(1) HUD Homes**

**(a) Name and Address Identification Number**

**(i) Standard**

A nonprofit must obtain a Name and Address Identification Number (NAID) in order to bid on REO properties.

**(ii) Required Documentation**

The nonprofit must submit [IRS Form W-9, Request for Employer Taxpayer Identification Number \(TIN\) and Certification](#) and HUD's form [SAMS-1111, Payee Name and Address](#).

**(b) Board of Directors**

**(i) Standard**

FHA strictly prohibits the sale or lease of properties acquired through the HUD Homes program to any of the nonprofit's officers, directors, elected or appointed officials, employees, or business associates, either during their tenure or for one year thereafter, or to any individual who is related by blood, marriage, or law to any of the above.

**(ii) Required Documentation**

The nonprofit must submit the required documentation listed in the [Board of Directors and Employees - Required Documentation](#) section in the [General Application Requirements](#) section above.

**(c) Articles of Incorporation and Bylaws**

**(i) Standard**

The nonprofit's mission statement, purpose, or goals stated in the nonprofit's Articles of Organization and bylaws must be consistent with those submitted in the application.

**(ii) Required Documentation**

**Conformed Copy**

The nonprofit must submit a Conformed Copy of its Articles of Organization, and bylaws if applicable. These documents must be signed and dated by the appropriate persons under applicable state law.

Conformed Copy refers to a copy that agrees with the original and all amendments to it.

**Written Declaration**

A Conformed Copy of the Articles of Organization and bylaws must be accompanied by a written declaration signed by an authorized representative of the organization certifying the copy is a complete and accurate copy of the document.

As an alternative to the foregoing declaration, an organization may submit a Conformed Copy of its Articles of Organization approved and dated by the appropriate state authority.

**(d) Affordable Housing Program Plan (AHPP)**

**(i) Definition**

An Affordable Housing Program Plan (AHPP), also known as the Affordable Housing Program Narrative, is referred to as an AHPP for purposes of this *SF Handbook*.

Affordable Housing Program Plan (AHPP) refers to a program plan, as described in a written proposal submitted to FHA, operated by a nonprofit in specific geographical areas in which the nonprofit provides affordable homeownership opportunities for Low- to Moderate-Income Borrowers by purchasing, rehabilitating, and reselling HUD Homes to these Borrowers. The program can include other homeownership activities, such as counseling.

**(ii) Standard**

A nonprofit must adhere to its AHPP. Unlike the application for approval, a separate AHPP must be submitted to every HOC with jurisdiction over the geographic areas in which the nonprofit agency wishes to do business.

If, at some point in the future, a nonprofit wants to engage in activities outside the scope of its approved AHPP, it must first submit an updated or revised AHPP to the Appropriate HOC(s) for approval prior to implementation.

**Conflicts of Interest**

No person who is an employee, officer, or elected or appointed official of the nonprofit agency or who is in a position to participate in a decision making process pursuant to the AHPP or gain inside information with regard to the lease or purchase of the property pursuant to the AHPP may obtain a personal or financial interest or benefit from the purchase of the property, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves, or for

those with whom they have family or business ties, during their tenure or for one year thereafter.

**(iii) Required Documentation**

**Copy of the AHPP**

The nonprofit must submit a copy of the AHPP for each local area in which the nonprofit agency intends to be active. If the nonprofit wants to expand its approval area, the Jurisdictional HOC may require additional information.

The AHPP must address the following:

- how Low- to Moderate-Income persons will benefit from participation in the program;
- how the nonprofit will transition families and individuals into homeownership;
- how the nonprofit's savings will be passed along to program recipients;
- how the nonprofit will locate the Low- to Moderate-Income persons who will participate;
- the type of homeownership counseling the nonprofit will provide to prospective homebuyers, if any. Provide a brief description of the administration of this counseling program;
- the areas including state, city, county and zip code in which the nonprofit plans to administer the program(s). The program must be operated within a 200-mile radius of the nonprofit's office;
- if the nonprofit agency intends to provide a lease-purchase program, the information relative to the manner in which rent is collected and applied, and whether repair reserves will be utilized to minimize repair costs after purchase;
- list of all properties the nonprofit currently owns and has owned within the last three years, rehabilitated (include approximate cost of rehabilitation), and properties that the nonprofit manages. Indicate which properties were financed directly or indirectly with FHA funds. Obtain the date purchased and purchase price, the date on which rehabilitation was completed, the date the property(ies) sold and resale price. Include demographic information on Borrowers;
- estimated developer fees or percentage of selling price for future transactions;
- anticipated number and location of units the nonprofit expects to purchase; and
- timeline for purchasing, rehabilitating, and selling (or placing in operation) properties the nonprofit intends to purchase from HUD.

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Provide the number of Days for each phase of the development (actual dates are not necessary).

**Copy of the Board Resolution**

The nonprofit must submit a copy of a board resolution that adopts the complete AHPP. This resolution must be signed and dated by the appropriate persons under applicable state law and as identified in the Articles of Organization and other governing documents.

**(2) FHA Mortgagor**

**(a) Board of Directors**

**(i) Standard**

FHA strictly prohibits the sale or lease of properties acquired by the nonprofit with FHA-insured financing to any of the nonprofit's officers, directors, elected or appointed officials, employees, or business associates, either during their tenure or for one year thereafter, or to any individual who is related by blood, marriage, or law to any of the above.

**(ii) Required Documentation**

The nonprofit must submit the required documentation listed in the [Board of Directors and Employees - Required Documentation](#) section in the [General Application Requirements](#) section above.

**(b) Articles of Incorporation and Bylaws**

**(i) Standard**

The nonprofit's mission statement, purpose, or goals stated in the nonprofit's Articles of Organization and bylaws must be consistent with those submitted in the application.

**(ii) Required Documentation**

**Conformed Copy**

The nonprofit must submit a Conformed Copy of its Articles of Organization, and bylaws if applicable. These documents must be signed and dated by the appropriate persons under applicable state law.

Conformed Copy refers to a copy that agrees with the original and all amendments to it.

**Written Declaration**

A Conformed Copy of the Articles of Organization and bylaws must be accompanied by a written declaration signed by an authorized representative of the organization certifying the copy is a complete and accurate copy of the document.

As an alternative to the foregoing declaration, an organization may submit a Conformed Copy of its Articles of Organization approved and dated by the appropriate state authority.

**(c) Affordable Housing Program Plan (AHPP)**

**(i) Definition**

An Affordable Housing Program Plan (AHPP), also known as the Affordable Housing Program Narrative, is referred to as an AHPP for purposes of this *SF Handbook*.

Affordable Housing Program Plan (AHPP) refers to a program plan, as described in a written proposal submitted to HUD, operated by a nonprofit in specific geographical areas in which the nonprofit provides affordable homeownership opportunities for Low- to Moderate-Income Borrowers by purchasing, rehabilitating, and reselling HUD Homes to these Borrowers. The program can include other homeownership activities, such as counseling.

**(ii) Standard**

A nonprofit must adhere to its AHPP. If a nonprofit wants to engage in activities outside the scope of their AHPP, it must first submit, for approval, an updated or revised AHPP to the Appropriate HOC(s).

**Conflicts of Interest**

No person who is an employee, officer, or elected or appointed official of the nonprofit agency or who is in a position to participate in a decision making process pursuant to the AHPP or gain inside information with regard to the lease or purchase of the property pursuant to the AHPP may obtain a personal or financial interest or benefit from the purchase of the property, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves, or for those with whom they have family or business ties, during their tenure or for one year thereafter.



**(iii) Required Documentation**

**Copy of the AHPP**

The nonprofit must submit a copy of the AHPP for each local area in which the nonprofit agency intends to be active. If the nonprofit wants to expand its approval area, the Jurisdictional HOC may require additional information.

The AHPP must address the following:

- how Low- to Moderate-Income persons will benefit from participation in the program;
- how the nonprofit will transition families and individuals into homeownership;
- how the nonprofit's savings will be passed along to program recipients;
- how the nonprofit will locate the Low- to Moderate-Income persons who will participate;
- the type of homeownership counseling the nonprofit will provide to prospective homebuyers, if any. Provide a brief description of the administration of this counseling program;
- the areas including state, city, county and zip code in which the nonprofit plans to administer the program(s). Program must be operated within a 200-mile radius of the nonprofit's office;
- if the nonprofit agency intends to provide a lease-purchase program, the information relative to the manner in which rent is collected and applied, and whether repair reserves will be utilized to minimize repair costs after purchase;
- list of all properties the nonprofit currently owns and has owned within the last three years, rehabilitated (include approximate cost of rehabilitation), and properties that the nonprofit manages. Indicate which properties were financed directly or indirectly with FHA funds. Obtain the date purchased and purchase price, the date on which rehabilitation was completed, the date the property(s) sold and resale price. Include demographic information on Borrowers;
- estimated developer fees or percentage of selling price for future transactions;
- anticipated number and location of units the nonprofit expects to purchase; and
- timeline for purchasing, rehabilitating, and selling (or placing in operation) properties the nonprofit intends to purchase from FHA. Provide the number of Days for each phase of the development (actual dates are not necessary).

**Copy of the Board Resolution**

The nonprofit must submit a copy of a board resolution that adopts the complete AHPP. This resolution must be signed and dated by the appropriate persons under applicable state law and as identified in the Articles of Organization and other governing documents.

**(d) Past Mortgage Performance**

The nonprofit must submit evidence of any past or current mortgage performance. If applicable, the nonprofit must include performance of FHA-insured mortgages, including addresses and FHA case numbers, certification of completion for each 203(k) property, date sold, sales price, and full name and telephone number of Borrower.

**(3) Secondary Financing**

**(a) Standard**

Restrictions on conveyance must automatically terminate if title to the mortgaged property is transferred by foreclosure or deed-in-lieu of foreclosure, or if the mortgage is assigned to the Secretary.

**(b) Required Documentation**

The nonprofit must submit copies of the legal instruments, such as the mortgage and Note used by, or proposed to be used by, the nonprofit agency when providing secondary financing.

**iv. Submitting the Application**

The nonprofit applicant must submit applications electronically through the [HUD Nonprofit Data Management System](#) (NPDMS). NPDMS is an automated web-based system designed to allow for the electronic submission of application, recertification, and reporting documentation. NPDMS collects, stores, and provides web-based access to participant applications and property activity data.

After [submitting the preliminary information](#) and receiving confirmation of eligibility, the applicant will be provided with login instructions to access NPDMS. FHA will not accept paper applications.

The nonprofit must submit a completed application within 30 Days of receiving access to NPDMS. The application date refers to the date that the application package is electronically submitted through NPDMS.

All certifications contained within the application must contain the following language:

*WARNING: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).*

**v. Processing of Application**

FHA will review all completed applications for approval to determine whether the nonprofit complies with all eligibility requirements. If FHA requires additional documentation or clarifying information, FHA may request such additional information and provide the nonprofit with a deadline for response. If the nonprofit does not provide the additional information requested by any specified deadline, FHA may deny approval on this basis.

**vi. Incomplete Application**

Nonprofit agencies that submit an incomplete application package will receive a letter indicating the information required to cure the deficiency. This letter will give nonprofit agencies 15 Days to correct any deficiencies. If the new nonprofit applicant does not satisfy the outstanding requirement in its entirety and within the prescribed deadlines, the approval will be denied and the nonprofit must wait an additional 90 Days prior to reapplying.

**vii. Application Approval**

Nonprofit agencies that are approved for participation will be issued an approval letter from the Jurisdictional HOC describing which activities the nonprofit is approved for and any limitations associated with that approval. An approval is valid for a two-year period.

An approval granted by one HOC will be recognized and accepted by all other HOCs, with the exception of the AHPP. A nonprofit agency's AHPP must be separately approved by every HOC with jurisdiction over the geographic areas in which the nonprofit agency seeks to do business.

**viii. Application Rejection**

A nonprofit's application may be rejected due to deficiencies or for failure to submit a program that complies with applicable regulations and requirements of this *SF Handbook*. Nonprofit agencies that are not approved for participation will be issued a rejection letter from the Jurisdictional HOC describing the reasons for the application rejection.

The nonprofit must wait 90 Days to submit a new application.

**ix. Recertification**

**(A) Standard**

**(1) Recertification Process**

To retain FHA approval, nonprofits must complete FHA's recertification process prior to their two year approval expiration. Recertification of nonprofit agencies is not automatic.

Nonprofit agencies must demonstrate that they have created affordable housing opportunities in a fiscally responsible way. Nonprofit agencies must demonstrate that they met the following standards, if applicable, during the approval period:

- ability to meet the Department's and nonprofit agency's goals to expand affordable housing opportunities for Low- to Moderate-Income individuals;
- acceptable default and foreclosure rate(s) on FHA-insured properties;
- ability to complete rehabilitation within approved time frames;
- minimal change in staff and nonprofit agency's experience requirements;
- adherence to HUD resale requirements; and
- maintenance of an acceptable accounting system to report on property-specific costs related to purchase, rehabilitation, rental, and resale.

**(2) Filing Deadline**

The required documentation must be submitted to the Jurisdictional HOC at least 90 Days prior to the end of the approval period. The HOC must be notified of any changes that impact the recertification application after it has been submitted.

**(B) Required Documentation**

The recertification process is similar to that of initial application process. Nonprofits must submit the following recertification documents through the [NPDMS](#):

- a [Complete Nonprofit Application](#); and
- a detailed description of the FHA program activities for which the nonprofit was approved during the approval period. Nonprofits must provide the following information where applicable:
  - property address;
  - FHA case number (on acquisition);
  - FHA case number (on resale, if applicable);
  - date of acquisition;
  - indication of whether nonprofit utilized a 203(b) or 203(k) mortgage for acquisition;
  - Net Development Costs (NDC);
  - mortgage amounts;
  - name of the first mortgagee;

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- name of any additional mortgagees (if applicable);
- name of the ultimate Borrower;
- household size and income;
- discount amount;
- resale price and date;
- date of delinquency; and
- date of default.

#### **Additional Required Documentation for FHA Mortgagor**

The nonprofit must also submit evidence of any past or current mortgage performance. If applicable, the nonprofit must include performance of FHA-insured mortgages, including addresses and FHA case numbers, certification of completion for each 203(k) property, date sold, sales price, and full name and telephone number of Borrower.

#### **(C) Incomplete Recertification Application**

Nonprofit agencies that submit incomplete recertification applications will receive a letter indicating the information required to cure the deficiency. This letter will give nonprofit agencies 15 Days to correct any deficiencies. If the nonprofit applicant does not satisfy the outstanding requirement in its entirety and within the prescribed deadlines, the approval for recertification will be denied.

If the nonprofit does not submit an acceptable recertification application before the expiration of the two-year approval period, the nonprofit will be removed from the HUD Nonprofit Roster.

#### **(D) Failure to Recertify**

Failure to recertify will result in the nonprofit's removal from the program and the HUD Nonprofit Roster.

The nonprofit must comply with all program requirements for any program activity that was not finalized at the time of removal.

#### **(E) Recertification Application Approval**

Nonprofit agencies that are recertified for participation will be issued an approval letter from the Jurisdictional HOC describing which activities the nonprofit is approved for and any limitations associated with that approval. An approval is valid for a two-year period.

An approval granted by one HOC will be recognized and accepted by all other HOCs, with the exception of the AHPP. A nonprofit agency's AHPP must be separately approved by every HOC with jurisdiction over the geographic areas in which the nonprofit agency seeks to do business.

**(F) Recertification Application Rejection**

A nonprofit's recertification application may be rejected due to deficiencies or for failure to submit a program that complies with applicable regulations and requirements of this *SF Handbook*.

Nonprofit agencies that are not approved for recertification will be issued a rejection letter from the Jurisdictional HOC describing the reasons for the rejection of the recertification application and will be removed from the HUD Nonprofit Roster.

**c. Post-Approval Requirements**

Governmental Entities and HUD-approved Nonprofits must comply with the following requirements and restrictions for its FHA business operations in addition to continuing to operate in full compliance with the eligibility requirements outlined in this *SF Handbook*.

**i. Consultant Services**

[Consultant services](#) provided under an independent contractor relationship (as opposed to an employer-employee relationship) shall not constitute more than half of the nonprofit's activities in the operation of its FHA-approved programs. This measurement will be calculated by evaluating the ratio of nonprofit staff to contracted or consultant staff; the ratio of hours devoted to the implementation of the AHPP by nonprofit staff versus contracted or consultant staff; and the funds devoted to paying nonprofit staff compared to those paying contracted or consultant staff. The nonprofit must have the in-house resources and capacity to run its own programs, and contract for services on a temporary and supplementary basis.

Therefore, to ensure that the consultant services are provided on an arm's length basis, the nonprofit must disclose any written and/or side agreements with parties that may derive financial gain through the homeownership program. Disclosure must identify the name of the business Entity, and the individuals from the company who will be working with the nonprofit, the terms of the relationship and how the party will be compensated. Failure to adequately disclose may result in a conflict-of-interest determination.

The nonprofit must contact the Program Support Division (PSD) immediately at the Jurisdictional HOC if more than half of the nonprofit's activities are provided by consultants under an independent contractor relationship at any time during the approval period.

**ii. Limitation on the Number of 203(k) FHA-Insured Mortgages**

A nonprofit is prohibited from further borrowing under its FHA Mortgagor approval if the nonprofit has 10 or more incomplete 203(k) developments at any given time.

**(A) Exceptional Performance Waiver**

Nonprofit agencies with an exceptional performance record of successfully completing 203(k) developments (defined as those agencies that have successfully completed 20 or more 203(k) developments) may apply to the HOC for a waiver of the limitation on 203(k) mortgages. This waiver request must contain a narrative describing the nonprofit agency's homeownership or long-term rental program, current audited financial statements with an unqualified opinion from a CPA for the prior three years, a listing of all properties currently owned by the nonprofit agency (both conventional and government financed), a record of performance on **all** 203(k) mortgages (current as well as previous loans), as well as the evidence to support the sale or rental of these properties. Nonprofit agencies that are approved for this waiver for financing for more than ten 203(k) mortgages at one time will have it stated in their approval letter from the HOC.

**iii. HUD Homes – Individual Property Files**

**(A) Definition**

Individual Property Files refer to files that Governmental Entities and HUD-approved Nonprofits participating in the HUD Homes program must maintain for each property purchased, sold, or leased when a discount of 10 percent or greater is obtained at the time of purchase.

**(B) Standard**

Governmental Entities and HUD-approved Nonprofits must submit the Individual Property Files to FHA through the NPDMS no later than 60 Days after the resale of a property to a subsequent homebuyer. Governmental Entities and HUD-approved Nonprofits must send an e-mail to the appropriate point of contact within the Program Support Division (PSD), in the Jurisdictional HOC, notifying them when an Individual Property File is ready for review. Individual Property Files are ready for review once all data has been entered and supporting documentation has been uploaded.

The Individual Property File must be maintained for a minimum of three years after the property is sold by the nonprofit.

**Exception**

HUD-approved Nonprofits participating in the Dollar Homes Sales to Local Governments, Good Neighbor Next Door (GNND) and Asset Control Area (ACA) are not required to maintain an Individual Property File.

**(C) Required Documentation**

The Individual Property File must include all supporting documentation for NDCs.

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The supporting documentation includes the following:

- copies of the fully executed Settlement Statements or similar legal documents for the nonprofit's purchase from HUD and from the nonprofit's resale of the property to the new purchaser;
- a copy of a signed Land Use Restriction Addendum (LURA);
- income verification for the purchaser who bought from the nonprofit. This may be in the form of a W-2, pay stubs, verification of employment, or tax returns. Nonprofits must also provide a certification that the resale Borrower's income was at or below 115 percent of HUD's determination of median income for their area when adjusted for family size;
- appraisal reports if the property was purchased as a 203(k) or financed with 203(b) or other FHA insurance funds;
- rehabilitation documents must include:
  - Work Write-Up/contractor estimate of repair costs
  - change orders
  - inspection of repairs by nonprofit
  - invoices from contractors
  - copies of payments to contractors
- additional rehabilitation documents for 203(k) must include:
  - draw requests
  - Lien Waivers
  - Final Release Notice
- if the property is leased under an approved Lease/Purchase Program:
  - copies of executed lease
  - income verification
  - evidence of proactive work of nonprofit to move tenants into homeownership
  - appraisal or document from independent third party to determine Fair Market Rent
  - list of other program costs, including developer's fees.

Accounting records must be maintained in a property specific format so that cost calculations can be made for all expenses related to each specific property.

In addition, Governmental Entities and HUD-approved Nonprofits must submit a list of all business partners participating in the rehabilitation and resale of the property. The list must include the name of the company, the name of the principals, the name and title of all staff with whom the nonprofit is working, a description of the services provided by the company, and an accounting of the costs and fees associated with those services. This information must be reported for all real estate agents, lenders, and contractors involved in the rehabilitation and sale of the HUD Homes property.

**(D) HUD Homes – Net Development Costs**

The Net Development Costs (NDC) are composed of the allowable property Acquisition Costs plus allowable rehabilitation, holding, and selling costs which



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Governmental Entities and HUD-approved Nonprofits incur when purchasing HUD Homes at discounted prices, redeveloping the properties for resale, and selling those properties. The NDC calculation applies to all HUD Homes sold to nonprofit organizations and Governmental Entities at a 10 percent or greater discount regardless of the source of the financing (FHA, conventional mortgage, or cash), except for discounted REO homes purchased through the Dollar Home Sales to Local Governments, ACA, and GNND programs.

The purpose of these discounts and the limits on development costs is to make housing affordable to Low- to Moderate-Income families. The Department limits the costs that are eligible to be included in the NDC calculation and prohibits the nonprofit organization or Governmental Entity from reselling the repaired or improved properties at prices in excess of 110 percent of the NDC calculation. If the nonprofit organization's or Governmental Entity's resale price of the HUD Home exceeds 110 percent of the NDC, or if non-allowable items that are included in the NDC result in an excessive sales price, the HUD-approved Nonprofit organization or Governmental Entity must use the excess profit to pay down the existing mortgage associated with that particular resale.

**(1) Costs Allowed in Calculating the Net Development Costs**

Only the costs specifically included in the following list, within the prescribed limitations and/or conditions, may be included in calculating the NDCs:

- the discounted purchase price paid to HUD
- upon the purchase of the property from HUD, financing and closing costs actually incurred, which must be reasonable and customary for the area in which the property is located, is limited to the following:
  - actual loan origination fee, not to exceed 1 percent
  - supplemental loan origination fee (203(k) mortgages only)
  - credit report fee
  - net tax and insurance escrow deposit
  - settlement fee (Borrower's portion)
  - discount points
  - hazard insurance premiums
  - mortgagee's title insurance policy premium
  - owner's title insurance policy premium
  - notary fees
  - recording fees
  - appraisal fee
  - courier fees
  - document preparation fees
  - attorney fees for services performed in connection with the mortgage closing, such as review of abstract or preparation of closing documents
  - flood plan certification and fee for determination of flood zone

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- for the time period the nonprofit organization or Governmental Entity holds title, the following costs, limited to amounts that are reasonable and customary for the area in which the property is located, may be included:
  - fees paid to an approved 203(k) Consultant for Work Write-Ups, Cost Estimates, and inspections only
  - property management, but only if related to periodic inspection and/or minor maintenance of the property
  - architectural fees, but only if the services are provided by a licensed architectural firm or individual architect
  - rehabilitation costs, which are the total verifiable contractor and vendor expenditures incurred in the actual reconstruction, repair, restoration and physical improvement of the property. Rehabilitation costs are limited to the actual price paid to the contractor for completing each repair or improvement, and may also include expenditures for mechanical systems inspections, sewer and well inspections, repair inspections, foundation certifications for Manufactured Housing obtained from a licensed engineer, and roof inspections from a licensed contractor. HUD may require canceled checks and corresponding receipts as proof of rehabilitation costs. When calculating the NDC, Governmental Entities or HUD-approved Nonprofits using grant funds for the rehabilitation of HUD Homes acquired at a discount, cannot include the cost of the rehabilitation that is paid for by those grant funds
  - cost of public and municipal services and utilities and real property taxes for the subject premises, except for delinquent interest or penalty charges incurred as a result of failure of Borrower to pay these expenses in a timely manner
  - cost of termite inspection and extermination services
  - Homeowners' Association (HOA) fees or condo association fees
  - permits and other fees paid to units of state and local governments that are required by rule, law, regulation or other legally binding mandate that must be paid before initiating or completing the rehabilitation or property improvement
  - survey costs
  - hazard and liability insurance premiums
  - interest portion of Mortgage Payments limited to a maximum of six months interest payments, less any and all rents received. If the property is resold in less than 180 Days, the interest payment credit must be prorated on the basis of the actual payments made – rent received and interest paid would be allowable costs but not the principal.
- upon the resale of the property to a new Borrower, only the following seller closing costs that are actually incurred, limited to amounts that are reasonable and customary for the area in which the property is located, may be included:

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- 1/2 of closing agent-fee (seller's portion)
- electronic wiring fees
- courier and mailing fees (seller's documents only)
- title insurance premium (owner's policy only)
- state, county, or city tax stamps, if local law requires the seller to pay these costs
- homeowners warranty premium
- environmental hazard certification
- document preparation fee (seller's documents only)
- recording (deed only) and re-conveyance fees
- sales commissions for real estate broker/agent services
- condominium transfer fee

**(2) Costs Not Allowed in Calculating the Net Development Cost**

Costs not listed in [Costs Allowed in Calculating the Net Development Cost](#) are ineligible and cannot be included in the NDC calculation. Ineligible costs include:

- general administration cost of the nonprofit organization's or Governmental Entity's AHPP and homeownership programs, including overhead and staffing costs;
- housing developer fees and/or real estate consultant fees;
- sales bonuses and sales incentives (other than sales commissions) for selling or listing real estate brokers/agents;
- gifts to the eventual Borrower for downpayment, financing or closing costs, and any other Borrower-related expenses associated with their purchase of the property;
- development, maintenance and management costs related to other properties in the nonprofit organization's or Governmental Entity's inventory;
- delinquent property tax penalties and interest;
- Mortgage Payment late fees, prepayment penalties, pay-off quote fees and fax charges; or
- any development costs that are paid from local, state, or federal grant funds that would otherwise be allowable in the NDC calculation.

**(E) HUD Homes – Land Use Restriction Addendum**

**(1) Definition**

The [Land Use Restriction Addendum \(LURA\)](#) (see Mortgagee Letter 01-30) is a legally binding contractual agreement between HUD and the Governmental Entities or nonprofits that imposes restrictions on the resale of a HUD Home that the nonprofit organization or Governmental Entity purchased at a discount of 10 percent or greater.

**(2) Standard**

Governmental Entities and HUD-approved Nonprofits participating in the HUD Homes program must execute the [LURA](#) (see Mortgagee Letter 01-30) as part of the FHA sales contract for any property purchased at a 10 percent or greater discount. The LURA terminates five years from the date of execution.

The LURA requires the Borrower to expand affordable housing opportunities by complying with the following requirements:

- The Borrower must complete needed repairs to bring the property in compliance with local housing code followed by resale, lease, or lease purchase only to a person who intends to occupy the property as his or her Principal Residence and whose income is at or below 115 percent of the median income in the area, when adjusted for family size, or state, Governmental Entity, tribe, or agency thereof.
- If sold, the Borrower must resell the property for an amount not in excess of 110 percent of the NDC. The NDC is the total HUD-allowable costs to purchase, rehabilitate, and resell the property.
- The property may not be occupied by or resold to any of the Borrower's officers, directors, elected or appointed officials, employees, or business associates, either during their tenure or for one year thereafter, or to any individual who is related by blood, marriage, or law to any of the above.
- There may be no conflict of interest with individuals or firms that may provide acquisition or rehabilitation funding; management, sales or rehabilitation services; or other services associated with the property.

The Governmental Entity or HUD-approved Nonprofit Borrower must provide periodic reports, in the format and frequency specified in the [HUD Homes – Individual Property Files](#) section.